

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF NEW YORK

3
4 NATIONAL RIFLE ASSOCIATION OF)
AMERICA,)
5)
Plaintiff,) CASE NO. 1:18-CV-566
6)
vs.)
7)
ANDREW CUOMO, et al.,)
8)
Defendants.)
9)

10 TRANSCRIPT OF PROCEEDINGS
11 BEFORE THE HON. CHRISTIAN F. HUMMEL
12 FRIDAY, APRIL 12, 2019
ALBANY, NEW YORK

13 FOR THE PLAINTIFF:

14 Brewer Attorneys & Counselors
By: Sara Rogers, Esq.
15 750 Lexington Avenue, Floor 14
New York, New York 10022

16 FOR THE DEFENDANTS:

17 Office of the New York State Attorney General
By: William A. Scott, AAG
18 The Capitol
Albany, New York 12224
19 -and-
Nathaniel Dorfman, Esq., Department of Financial Svcs.
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24 THERESA J. CASAL, RPR, CRR, CSR
Federal Official Court Reporter
25 445 Broadway, Room 509
Albany, New York 12207

THERESA J. CASAL, RPR, CRR
UNITED STATES DISTRICT COURT - NDNY

1 (Court commenced at 2:04 PM.)

2 THE CLERK: Case is National Rifle Association of
3 America versus Cuomo, et al., docket number 18-CV-566.
4 Appearances for the record, please.

5 MS. ROGERS: Sarah Rogers, your Honor, with the
6 Brewer Law Firm, on behalf of the National Rifle
7 Association.

8 THE COURT: Good afternoon, Miss Rogers.

9 MS. ROGERS: Good afternoon.

10 MR. SCOTT: William Scott, New York State Attorney
11 General's Office, on behalf of defendants.

12 MR. DORFMAN: Hello, your Honor. Nat Dorfman from
13 the New York State Department of Financial Services. This
14 is my first time appearing before you. Good afternoon.

15 THE COURT: Good afternoon, Mr. Dorfman. Good
16 afternoon, Mr. Scott.

17 MR. SCOTT: Good afternoon.

18 THE COURT: All right. I scheduled this
19 conference because I received a flurry of letters from the
20 attorneys regarding this matter.

21 Docket number 93 is a letter which was filed by
22 the attorneys for the NRA by Ms. Rogers, indicating that she
23 and Mr. Scott were having some difficulty agreeing to the
24 terms of a protective order and asking the Court's
25 intervention.

1 Docket number 96 is a letter from the Brewer Law
2 Firm on behalf of the plaintiffs indicating that there would
3 be some difficulty regarding the service of subpoenas on the
4 Superintendent of the Department of Financial Services, who
5 the plaintiffs allege is a registered agent for the various
6 Lloyd entities.

7 Docket number 98 is a response from Mr. Scott to
8 the various correspondence filed by the NRA, and then docket
9 number 96 (sic) is a letter from the NRA indicating they may
10 be seeking a briefing schedule to hold in contempt Lloyds of
11 London for failing to respond to certain subpoenas.

12 And I know also on the docket is a Notice of
13 Motion and Motion for Withdrawal of Appearance by Miss Gase,
14 who apparently was previously a partner with the law firm of
15 Brewer & Attorneys and she has left that firm. The Court is
16 going to do a text order granting her application or motion
17 to be relieved as counsel as there are a number of other
18 attorneys from the Brewer Firm whom have appeared.

19 Ms. Rogers, let me ask you a question: Have you
20 and Mr. Scott had any further conversation regarding the
21 issue of the protective order?

22 MS. ROGERS: Your Honor, not since this conference
23 was requested, apart from the correspondence that you've
24 seen. We didn't expect to need to seek relief from the
25 Court for something like a protective order and we didn't do

1 so lightly or readily, but we've been attempting to meet and
2 confer about it since November and not gotten anywhere,
3 sometimes not even been able to elicit a response. So our
4 hope was to tee this up for today, get some guidance or
5 assistance. We'd hoped the protective order provisions we
6 are asking for are not controversial or exotic and we'd like
7 them to get in place so that third-parties on whom we've
8 served subpoenas can submit documents so that the NRA can
9 supplement its expert report which has schedules we have not
10 been able to serve since they're confidential and so the
11 litigation can move along.

12 THE COURT: Mr. Scott, sir, what can we do to move
13 the issue of the protective order forward?

14 MR. SCOTT: Well, I think there's a couple of
15 issues here, Judge, the first of which is the
16 confidentiality order that we're discussing, I have no
17 reason to believe that we won't be able to reach terms on.
18 But the broader issue of that is that the order that we've
19 been discussing, the terms that we've indicated to Counsel
20 that we'd be agreeable to, don't allow the NRA to designate
21 this information as confidential or any other party to
22 designate as confidential. The order is designed only to
23 how the material will be handled if it's designated as
24 confidential by the Court or by agreement by the parties.
25 As we see in the NRA disclosures in this case, they asserted

1 confidentiality for a large swath of materials that we don't
2 think are, frankly, confidential, and I suspect that that is
3 going to require further motion practice before this Court
4 to clear up.

5 THE COURT: Just to clarify to you and Ms. Rogers,
6 there's no awards to the litigants who file the most motions
7 in one year. I know the two of you seem confused by that,
8 but I think there are seven motions pending. There is not
9 an award when you hit ten, for example.

10 MR. SCOTT: I understand.

11 THE COURT: I just wanted to make certain. Go
12 ahead.

13 MR. SCOTT: I think our position is that we would
14 be -- even if we're able to resolve the terms of that
15 confidentiality order, it's not going to resolve the
16 designation of this material as confidential. And if they
17 decide to turn over that document without an agreement as to
18 being confidential or directed to be confidential by this
19 Court, they're certainly free to, but that's not an
20 acknowledgement on our behalf that it is so designated.

21 THE COURT: So do you have some suggestion as how
22 to move this matter forward?

23 MR. SCOTT: I do. I think that we're going to,
24 frankly, need to set a schedule for how to brief those
25 motions to compel the plaintiff's responses to our discovery

1 demands and interrogatories. I'm sure that they may want to
2 be heard as to a protective order on that issue. And I
3 think, frankly, given the outstanding subpoenas that are at
4 issue in this case, I know there's been over a dozen
5 third-party subpoenas served thus far, the discovery motions
6 that are pending and that we think will be pending, that's
7 appropriate to at least extend if not stay the discovery
8 deadlines in this case.

9 THE COURT: You haven't really answered my
10 question. Do you have some suggestion as to how to resolve
11 the confidentiality and protective order issue without the
12 need for more motion practice?

13 MR. SCOTT: I don't know that there is a way,
14 frankly, your Honor, to resolve that because I think that we
15 have a fundamental disagreement as to what amounts to
16 confidential information in this case. The NRA seems to be
17 of the opinion that anything that they don't want to be made
18 public is confidential, whether it's at issue in this matter
19 or not. So I don't know that there is a way for the two
20 parties to come to an agreement on that.

21 THE COURT: Ms. Rogers, do you have some
22 suggestion?

23 MS. ROGERS: Yes, your Honor. The order that we
24 filed as Exhibit A to our letter we believe is reasonable,
25 fairly customary. We have a provision in there that governs

1 the parameters of what can be designated confidential.
2 We've tried to make that align with Rule 26(c). So just
3 like the criteria for a protective order to protect a party
4 from embarrassment, harassment, disclosure of proprietary or
5 trade secret information, that's what we've set forth in
6 here. So we only allow parties to designate materials
7 confidential that are proprietary, trade secret,
8 commercially sensitive financial information, things that at
9 least in counsel's experience parties designate confidential
10 routinely within the parameters of 26(c) and there is a
11 mechanism in the order. First of all, Mr. Scott makes the
12 point -- I'm not sure, he seems to argue that there's not an
13 actual mechanism in here to designate things, but there is.
14 The order specifies that if you produce a document and you
15 produce it in TIF form (phonetic), which is standard
16 e-discovery practice, that you can stamp it "confidential,"
17 that's paragraph 4 of the order. And there's also a
18 mechanism, if we designate something confidential that they
19 wish to contest or vice versa, if the Attorney General or a
20 third-party designates something confidential that the NRA
21 wishes to contest, we can meet and confer about that and if
22 that can't be resolved, hopefully it could be, we could seek
23 guidance from Your Honor.

24 So, you know, our preference would be to get this
25 order in place. It allows plenty of latitude if there's a

1 controversial document for the NYAG to assert its rights,
2 but I'm meeting and conferring with third-parties responding
3 to subpoenas saying things like we're an insurance company,
4 we can't produce the names of our insureds without a
5 protective order, and we're stymied until we can get one.

6 THE COURT: Mr. Scott, let me ask you a question:
7 Annexed to docket number 93 is a 16-page confidentiality and
8 protective order, which I assume you've seen. Do you have
9 specific objections to the order?

10 MR. SCOTT: Well, to the extent that the order
11 allows them to designate materials confidential, yes, we do
12 object to that. We have -- the discussions up to this point
13 have included revisions deleting their ability to make such
14 designations. We think that they are attempting to
15 improperly designate material unilaterally as confidential
16 and that's --

17 THE COURT: Well, my understanding is, and you'll
18 correct me if I'm wrong, if they designate a document
19 confidential and you dispute whether or not it's, in fact,
20 confidential, then you have the right to come to court and
21 have the Court adjudicate the matter.

22 MR. SCOTT: As I expressed to Counsel before on
23 this issue, I think we are sort of kicking that can down the
24 line instead of dealing with it now, which is where we feel
25 it should be addressed, upfront, as compared to as we're

1 preparing for summary judgment or some other stage in the
2 litigation.

3 THE COURT: So do you intend -- do you propose to
4 do this document by document?

5 MR. SCOTT: Well, I think in the course of their
6 demands, they have asserted these confidentiality issues. I
7 think they can be dealt with on a broader basis, based on
8 those responses, so not necessarily document by document,
9 but they have categories of information that they seem to
10 feel are confidential.

11 THE COURT: Isn't that true in any dispute
12 involving a confidentiality order, Mr. Scott?

13 (Pause in proceedings.)

14 MR. SCOTT: I'm sorry, your Honor.

15 THE COURT: Isn't that true in any discovery
16 dispute where there's a confidentiality order, one party
17 thinks something is confidential, the other does not, and if
18 you can't resolve it, you come to court and we adjudicate it
19 for you?

20 MR. SCOTT: We can. I think the question is the
21 timing of it as to whether or not we have to -- if they're
22 allowed to designate it initially or -- and we resolve the
23 matter now before the designation is made.

24 THE COURT: So you want me to go through and look
25 at each and every one of these documents one at a time to

1 determine whether or not it's confidential?

2 MR. SCOTT: I don't think we would want the Court
3 to have to go through that level of --

4 THE COURT: That was the correct answer,
5 Mr. Scott, very good. Do you understand, Mr. Scott,
6 Ms. Rogers, I have 300 other cases? I understand this case
7 is very important, but it's no more or less important than
8 my other 300 cases, so I am not gonna sit down and go
9 through every one of your documents with you, I can assure
10 you of that. So you both seem like smart, experienced
11 lawyers t me. Do you have some idea how to move this
12 forward, Mr. Scott, without our eighth and ninth motion?

13 MR. SCOTT: I can readdress the issue with my two
14 clients and see if they would revise their position as to
15 the confidentiality order, your Honor.

16 THE COURT: Well, who are your clients that are
17 taking this position?

18 MR. SCOTT: I would say that both clients, we've
19 addressed the issue with them and that both had concerns
20 regarding the NRA's attempts to improperly designate
21 materials as confidential.

22 THE COURT: So are we talking about the Governor
23 and Maria T. Vullo?

24 MR. SCOTT: And we also represent the Department
25 of Financial Services.

1 THE COURT: So you have three clients.

2 MR. SCOTT: Correct, your Honor.

3 THE COURT: Want me to give you a briefing
4 schedule? What do you want to do?

5 MS. ROGERS: Your Honor, obviously, our preference
6 would be to avoid further briefing and just get an order
7 entered today, but if Your Honor isn't prepared to enter the
8 order over --

9 THE COURT: Well, I am not gonna enter the order
10 over their objection no more than I would enter the order
11 over your objection. You okay if I do that?

12 MS. ROGERS: I understand, your Honor. So, I
13 mean --

14 THE COURT: What kind of motion do you want to
15 file?

16 MS. ROGERS: Well, we would move for a protective
17 order. I mean, I guess that's what we're trying to do --

18 THE COURT: With respect to specific documents?

19 MS. ROGERS: We would prefer, your Honor, to have
20 a confidentiality order entered substantially in the form of
21 the one that we've attached as Exhibit A to our letter to
22 allow for, you know, when a new document comes up, we don't
23 have to bring it to the Court and make another order, we can
24 just stamp "confidential" on it.

25 THE COURT: All right. So you want to make a

1 motion to the Court to approve the proposed protective
2 order?

3 MS. ROGERS: Yes, your Honor.

4 THE COURT: When do you want to file that by?

5 MS. ROGERS: We could file that, let's see,
6 today's the 12th? We can file that Monday.

7 THE COURT: Would you like some additional time so
8 you don't spend the weekend in the office? It's supposed to
9 be 70 degrees.

10 MS. ROGERS: That's fair, your Honor. How about
11 Tuesday.

12 THE COURT: I was gonna go crazy and give you
13 Wednesday, Ms. Rogers, but... All right. So you'll file
14 your motion by April 17th. Mr. Scott, when are you gonna
15 file your response?

16 MR. SCOTT: If we could have a week on that, your
17 Honor.

18 THE COURT: You can have two weeks, Mr. Scott.
19 You'll file your response by May 1st, and to the extent that
20 you feel compelled, Ms. Rogers, to file a reply, you'll file
21 a reply of no more than five pages by May 6th.

22 There's an additional issue -- or a number of
23 issues you raise, Ms. Rogers. Then you served a series of
24 subpoenas on people, including Lloyds of London, and there
25 appears to be some question as to whether or not Mr. Scott's

1 client will accept service on behalf of Lloyds, is that
2 correct?

3 MS. ROGERS: Yes, your Honor. So it's a bit of a
4 misnomer, people colloquial think of Lloyds of London as an
5 insurance company, but it's really an insurance marketplace
6 where many individual underwriting syndicates offer
7 insurance. And so what we've actually done is we've served
8 19 separate subpoenas on these different Lloyd syndicates,
9 we define them as the Lloyds entities. Under New York
10 Insurance Law, foreign entities like these that underwrite
11 insurance in New York must designate the New York Department
12 of Financial Services as their agent for service of process.
13 There are various technicalities that go into that. The
14 designation statute is a bit different depending upon
15 whether these are entities that are authorized to do
16 business in the State or whether they are excess line
17 insurers, which was the capacity in which the Lloyds
18 entities functioned when they underwrote insurance for the
19 NRA. So we think we have two separate bases to serve these
20 Lloyds entities via DFS. One basis to serve them is New
21 York Insurance Law Section 1213 which makes very clear that
22 it's the public policy of the State of New York that you
23 don't want foreign entities underwriting insurance in this
24 state and then you don't want to leave New Yorkers with no
25 remedy, no mechanism to sue them if something goes wrong, so

1 that statute is one basis.

2 The other basis is that in the NRA's insurance
3 policy with Lloyds, there's actually a clause that
4 contractually designates DFS as the agent for service of
5 process and we've cited a couple of cases in my letter dated
6 April 5th. There's the *Recyclers* case --

7 THE COURT: Right.

8 MS. ROGERS: -- I don't remember the full name,
9 but it starts with *Recyclers*.

10 THE COURT: It's *Recyclers Consulting Group versus*
11 *IMB Japan, Limited*.

12 MS. ROGERS: Thank you, your Honor. And in those
13 cases, there are similar fact patterns where you have a
14 third-party designated as an agent under a contract, the
15 third-party purports to reject service, but service is still
16 valid.

17 At this point, your Honor, I think most
18 realistically we would just be requesting a briefing
19 schedule and --

20 THE COURT: What kind of motion do you want to
21 brief?

22 MS. ROGERS: Rather than to hold Lloyds in
23 contempt, your Honor, we'd be content to just bring a motion
24 to compel. We just want the issue adjudicated.

25 THE COURT: All right. I'm hard-pressed to hold

1 them in contempt until there's some showing that they've
2 been properly served.

3 So, I guess, Mr. Scott, what's your clients'
4 position, if you have one, regarding this issue?

5 MR. SCOTT: Well -- and that's partly why
6 Mr. Dorfman is here, your Honor.

7 THE COURT: Right.

8 MR. SCOTT: As the Court is likely aware, the
9 Attorney General's Office scope of representation doesn't
10 generally extend to --

11 THE COURT: Right.

12 MR. SCOTT: -- subpoenas served, so that's why
13 Mr. Dorfman is here to answer questions for the Court.

14 THE COURT: Mr. Dorfman, what's your position
15 regarding whether or not you're required to accept service
16 on behalf of the various Lloyd entities?

17 MR. DORFMAN: We do not accept service of
18 third-party subpoenas on behalf of any of our regulated
19 entities. We haven't ever as far as I know. We have
20 opinion letters going back to 1952 which address this
21 precise issue that the agency does not accept third-party
22 record keeper subpoenas, which is what is at issue in this
23 case. We have additional guidance as recently as --

24 THE COURT: Let me ask you a question,
25 Mr. Dorfman: So suppose you have an entity that is not

1 present in the United States, like Lloyds, but that sells
2 insurance products in the United States, in New York State.
3 How do people effectuate service of a subpoena upon them?

4 MR. DORFMAN: If they're a named defendant in the
5 action, then we accept service of the cause of action. If
6 it's a third-party subpoena, here I would presume I would
7 have to go through the Hague Convention.

8 THE COURT: Ms. Rogers.

9 MS. ROGERS: So, your Honor, we are content to
10 file Hague papers as a backstop to avoid further delay, but
11 we believe here that the guidance letters that DFS has
12 issued in the past pertain to Section 1212 of the Insurance
13 Law --

14 THE COURT: Right.

15 MS. ROGERS: -- which deals with entities that
16 have more of a footing in and a connection to the State of
17 New York than the Lloyds entities do in this capacity in
18 this case. So we believe this is a fresh issue, a different
19 issue than the one that DFS' past letters address.

20 Also, I've not seen the department address that we
21 have a contract that separately designates them as the agent
22 for service of process and does not limit the type of
23 process, it does not say only a complaint. The subpoena is
24 process, it needs to be served.

25 THE COURT: Yeah, I'm somewhat troubled by the

1 idea, though, that two parties can enter into a contract
2 among themselves that requires the Department of Financial
3 Services to become the recipient of service. I'm not sure
4 how you do that.

5 Do you want to make a motion or how do you want to
6 proceed? 'Cause they're not gonna accept your subpoenas.

7 MS. ROGERS: Certainly, your Honor. So I think we
8 would move to compel -- I would like to style the motion as
9 follows, and Your Honor can tell me if this is agreeable: A
10 motion to compel Lloyds to respond to the subpoena, which
11 was properly served, or, in the alternative, a motion to
12 compel DFS to effect service.

13 THE COURT: Who are you gonna serve the Lloyds
14 motion upon?

15 MS. ROGERS: We would have to serve it upon the
16 Lloyds entities, which we would try to do through DFS.

17 THE COURT: DFS is not gonna accept service of a
18 motion. Maybe I'm incorrect, but Mr. Dorfman is shaking his
19 head, so I assume DFS is not gonna accept service of a
20 motion on behalf of Lloyds, is that correct?

21 MR. DORFMAN: That's correct, and Lloyds has
22 advised us that they don't view our acceptance of a subpoena
23 as being permissible under the statute either. I haven't
24 asked them about a motion, but I assume their position would
25 be the same.

1 THE COURT: Now my question becomes: How do you
2 intend to effectuate service upon Lloyds?

3 MS. ROGERS: So, one option, your Honor, in a
4 couple of those cases I cited, I have the same question you
5 did, how can two parties in a contract designate a
6 third-party without the third-party knowing or agreeing, and
7 that's actually addressed. There's a case where CT
8 Corporation is identified as the agent, CT doesn't know it,
9 there's nothing filed with the Secretary of State, service
10 is still deemed effective, so we could simply file the
11 motion, make Lloyds aware of it and if we win the motion,
12 then Lloyds is bound by the outcome. That seems to be what
13 the Southern District did in those other cases, although the
14 procedural posture wasn't the same --

15 THE COURT: Right.

16 MS. ROGERS: -- it was basically after the fact,
17 once the party won the motion, service was effectuated. The
18 other thing we could do is, you know, if we style the motion
19 as I propose, which is a two-pronged motion, either compel
20 Lloyds to respond or compel DFS to serve, then even if
21 Lloyds isn't compelled to respond, DFS has to go serve.
22 Does that make sense?

23 THE COURT: It only makes sense if you prevail
24 against DFS. If you don't prevail against DFS, then you're
25 back to my original question of how do you get jurisdiction

1 over Lloyds. But you tell me how you want to proceed, what
2 kind of motion you want to make, and I'll set a briefing
3 schedule?

4 MS. ROGERS: So we would like to move to compel
5 Lloyds to respond to the subpoenas which they have received
6 actual notice of and which we contend were properly served,
7 and, in the alternative, to compel DFS to effect service.

8 THE COURT: Ms. Rogers, have you had any direct
9 conversation or correspondence yourself with people from
10 Lloyds about this issue?

11 MS. ROGERS: Yes, we have, and they basically
12 articulate the position that they don't have a dog in this
13 fight, they've acknowledged they've received copies of the
14 subpoenas and they believe this is -- you know, DFS
15 maintains service wasn't proper, so they haven't been
16 served.

17 THE COURT: All right. When do you want to file
18 this motion by?

19 MS. ROGERS: Next Friday perhaps.

20 THE COURT: So you're gonna file this motion by
21 April 19th.

22 MS. ROGERS: Yes, your Honor.

23 THE COURT: And you're gonna serve that upon
24 Lloyds and upon DFS?

25 MS. ROGERS: We will serve it -- yes, we will

1 serve it on Lloyds via DFS and can litigate whether the
2 service is proper.

3 THE COURT: And I guess, Mr. Scott, is that
4 something you would be responding to or is that something
5 Mr. Dorfman probably would be more inclined to respond to?

6 MR. SCOTT: That would likely be through DFS
7 Counsel. We may assist, but it would generally be through
8 Corporate Counsel.

9 THE COURT: I guess, Mr. Scott and Mr. Dorfman,
10 when would you folks like to file your response by?

11 MR. DORFMAN: Two weeks would be sufficient time
12 if that's acceptable to the Court.

13 THE COURT: Sure. Sure. You'll file by May 3rd,
14 a slightly different schedule than the other motion, but --
15 and Ms. Rogers, to the extent you want to file a reply of no
16 more than five pages, you can do so by May 9th.

17 MS. ROGERS: Thank you, your Honor.

18 THE COURT: Have I addressed all of the issues
19 raised in your various correspondence, Miss Rogers, or is
20 there more?

21 MS. ROGERS: You've addressed -- I kicked off the
22 flurry of letters and you've addressed my issues, your
23 Honor. The only other minor point I would note in response
24 to something Mr. Scott said earlier about an extension of
25 discovery, we understand the Court has other important cases

1 and we -- you know, our constitutional rights are at stake
2 and we want to proceed expeditiously, but that's subject to
3 the Court's resources. We think that if discovery is
4 extended at any point, it should be an asymmetrical
5 extension that acknowledges that the NRA has abided by all
6 of the deadlines so far. It's DFS -- it's defendants,
7 excuse me, who have failed to meet and confer meaningfully
8 with us on a protective order despite our attempting to
9 since November.

10 THE COURT: Of course, he has a different view of
11 those events.

12 MS. ROGERS: Of course, your Honor, and we would
13 brief it if necessary. But the only thing we want to flag
14 is dates are advancing --

15 THE COURT: Right.

16 MS. ROGERS: -- and if deadlines do get extended,
17 we want the extension to be tailored to bear in mind that
18 this is a case we've brought with some degree of urgency and
19 that we've complied with our deadlines.

20 THE COURT: All right. Let me make you aware, and
21 perhaps you're aware of this, perhaps you're not, but there
22 is a motion to dismiss or partial motion to dismiss pending
23 for failure to state a claim, which was filed back on
24 December 19th. That motion will be decided by Judge McAvoy,
25 that motion is not on my radar, so I can't control when

1 Judge McAvoy will decide that. So that, in some way, will
2 determine what we do with respect to discovery because what
3 claims are remaining, if any, I won't know until then. So
4 you can continue to conduct discovery, but I will give you
5 sufficient time to conduct discovery once he renders a
6 decision on that, but I don't know when he will do that.
7 I'm hard-pressed to go down to the Senior District Judge's
8 chambers and tell him perhaps he ought to pick up his game a
9 little bit. I need this job, so we're not gonna do that.

10 Mr. Scott, what can we do for you, if anything?

11 MR. SCOTT: Yeah, your Honor, as I said earlier, I
12 think it does make sense to have some sort of extension of
13 discovery in this case.

14 THE COURT: And I will grant you an extension of
15 discovery once I get some sense of what the issues are. I
16 mean, I'm telling you now that discovery will be extended.
17 I'm trying to get a sense of when Judge McAvoy is gonna
18 decide that case, what claims remain and then we can have a
19 conversation and I'll extend the deadlines for you.

20 MR. SCOTT: Understood. I think the only deadline
21 that's slightly more imminent is our expert disclosure
22 response, which may be somewhat curtailed by where things
23 stand in discovery.

24 THE COURT: Right. And they haven't filed their
25 expert disclosure response, or maybe they have.

1 MR. SCOTT: They have, but I think they're in the
2 same position where they feel they need more documentation
3 to fully submit.

4 THE COURT: Sure. That was my sense from the
5 conversation. So, once we get a decision from Judge McAvoy
6 on that motion, I will schedule another conference and I
7 will reset the deadlines for you.

8 MS. ROGERS: Thank you.

9 MR. SCOTT: Appreciate it.

10 THE COURT: Anything else we can do for you,
11 Mr. Scott?

12 MR. SCOTT: No, your Honor.

13 THE COURT: Mr. Dorfman?

14 MR. DORFMAN: No, your Honor, thank you.

15 THE COURT: All right. You folks have a nice
16 weekend.

17 MR. SCOTT: Thank you.

18 MS. ROGERS: Thank you, your Honor.

19 (This matter adjourned at 2:29 PM.)

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CERTIFICATION OF OFFICIAL REPORTER

I, THERESA J. CASAL, RPR, CRR, CSR, Official
Realtime Court Reporter, in and for the United States
District Court for the Northern District of New York, do
hereby certify that pursuant to Section 753, Title 28,
United States Code, that the foregoing is a true and correct
transcript of the stenographically reported proceedings held
in the above-entitled matter and that the transcript page
format is in conformance with the regulations of the
Judicial Conference of the United States.

Dated this 27th day of June, 2019.

/s/ THERESA J. CASAL

THERESA J. CASAL, RPR, CRR, CSR

FEDERAL OFFICIAL COURT REPORTER

**THERESA J. CASAL, RPR, CRR
UNITED STATES DISTRICT COURT - NDNY**